

Application No.: 09/921,066
Date of Response: 4/30/2004
Reply to Action of: 04/19/2004

REMARKS

This Amendment is being entered in response to the Final Office Action of April 19, 2004. In this Office Action, the Examiner made the following objections and rejections:

- 5 1. Claim 1 was rejected as allegedly indefinite.
2. Claim 13 was rejected as allegedly indefinite.
3. Claim 16 was rejected as allegedly indefinite.
4. Claims 1, 11, 12, and 15 were rejected as allegedly obvious and/or anticipated.
- 10 5. The Examiner acknowledged the existence of allowable subject matter in claims 3-10, 14 and 16-29.

Applicants have amended the claims in accordance with the Examiner's recommendations. In doing so, applicants have made a good faith effort to comply with the Examiner's suggestions, so as to place the claims in condition

15 for allowance. Reconsideration is respectfully requested.

1. REJECTION OF CLAIM 1 AS ALLEGEDLY INDEFINITE

The Examiner has rejected claim 1 under 35 U.S.C. 112 as allegedly indefinite. The Examiner has stated:

- 20 In claim 1, "a control circuit" is inferentially included and it is unclear if the applicant intends to positively recite and claim the control circuit. The examiner has interpreted the claim as containing the control circuit and the claim should be amended accordingly. It is
- 25 suggested to insert "a control circuit adapted to be responsive to an activation source selected from the group... combinations" before the "means for ceasing"

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paragraph and change "by a control circuit" to "by said control circuit".

Applicants have amended claim 1 in accordance with the Examiner's
5 suggestion.

2. REJECTION OF CLAIM 13 AS ALLEGEDLY INDEFINITE

The Examiner has rejected claim 1 under 35 U.S.C. 112 as allegedly
indefinite. The Examiner has stated:

10 In claim 13, "the quality factor" lacks antecedent basis.
It is unclear what the quality factor relates to in the
means for ceasing the flow.

While applicants do not necessarily agree that the term is unclear,
15 applicants have canceled claim 13 to facilitate prosecution of this application.
Additionally, claim 14 has been amended to remove its reference to claim 13.

3. REJECTION OF CLAIM 16 AS ALLEGEDLY INDEFINITE

The Examiner has rejected claim 16 under 35 U.S.C. 112 as allegedly
20 indefinite. The Examiner has stated:

In claim 16, "a control circuit" is inferentially included.

Applicants have amended claim 16 in a manner similar to the Examiner's
suggestions regarding claim 1.

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**4. REJECTION OF CLAIMS 1, 11, 12, AND 15 AS ALEGEDLY ANTICIPATED
AND/OR OBVIOUS IN VIEW OF TSITLIK ET AL.**

The Examiner has rejected claim 1, 11, 12, and 15 as allegedly obvious
and/or anticipated by Tsitlik et al., United States Patent 5,217,010. The

5 Examiner has stated:

10 Claims 1, 11, 12, and 15 are rejected under 35 U.S.C.
102(b) as anticipated by or, in the alternative, under 35
U.S.C. 103(a) as obvious over Tsitlik et al (5217010).
Tsitlik shows the means for delivery, transmitting, and
receiving as the electrodes 36 and 42 or 62 and 59.
Tsitlik uses conventional circuitry with pacing logic 32
or 54 being the claimed control circuit and the pacing
output stage 30 or 58 being the claimed means for
15 ceasing the flow. The pacing logic being responsive to
the processor 37 or 59 and capable of meeting or
inherently being responsive to a DC source since it is
conventional circuitry.
In the alternative, Tsitlik discloses the claimed
invention except for the control circuit being adapted to
20 be responsive to a DC activation source. It would have
been obvious to one having ordinary skill in the art at
the time the invention was made to modify the control
circuit (pacing logic) as taught by Tsitlik, with the
control circuit being adapted to be responsive to a DC
25 activation source since it was known in the art that
control circuitry (pacing logic) is adapted to be
responsive to a DC activation source to provide power
efficient and easily controlled circuitry since pacemaker
circuitry operates using DC power from a battery that
30 does not require inefficiently converting the DC power
into AC control signals.

While the applicants do not necessarily agree that the cited reference
renders their claimed invention obvious and/or anticipated, to facilitate the
prosecution of this application, claim 1 has been amended to recite all of the
35 limitations found in substantially allowed claim 3. As claims 11, 12, and 15
depend, either directly or indirectly, from 1, it is respectfully submitted that this
amendment obviates the rejection of claims 11, 12, and 15. Claim 3 has been

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canceled, as it is now redundant with respect to claim 1. Claims 4 and 6 have been amended to remove their dependency on canceled claim 3. This amendment is being entered only to facilitate the prosecution of the application. Applicants specifically wish to retain the right to argue such an anticipation and/or obviousness rejection in a continuation application.

5. ALLOWABLE SUBJECT MATTER

The Examiner has acknowledged the existence of allowable subject matter in the claims. The Examiner has stated:

10 Claims 16-29 would be allowable if rewritten or
 amended to overcome the rejection(s) under 35 U.S.C.
 112, second paragraph, set forth in this Office action.
15 Claims 3-10 and 14 would be allowable if rewritten to
 overcome the rejection(s) under 35 U.S.C. 112,
 second paragraph, set forth in this Office action and to
 include all of the limitations of the base claim and any
 intervening claims.

It is respectfully submitted that the applicants have rewritten the claims in compliance with the Examiner's suggestions so as to place them in condition for allowance.

CONCLUSION

Applicants have amended claims 1, 13, and 16 in compliance with the Examiner's suggestions. With regard to the anticipation/obviousness rejection, applicants have amended independent claim 1 to recite all of the limitations of substantially allowed claim 3. It is respectfully submitted that this obviates the rejection of claims 1, 11, 12, and 15.

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Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. If, for any reason, the Patent Examiner believes that a telephone conference with applicants' agent might in any way facilitate the prosecution of this case, the Examiner is respectfully requested to

5 call such agent.

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Respectfully submitted,
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By



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